STUDENT ID NO

MULTIMEDIA UNIVERSITY

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 3, 2019/2020

ULB2612 – LABOUR LAW
(All Sections / Groups)

12 JUNE 2020
Reading Time: 9.00 AM-9.15 AM

Answering Time: 9.15 AM-12.15 PM
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 5 Questions only.

3. Attempt **FOUR** out of FIVE questions. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are only allowed to bring in CLEAN AND ORIGINAL COPY of the following statutes into the exam venue:
   i. Employment Act 1955
   ii. Industrial Relations Act 1967
   iii. Trade Unions Act 1959

"Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

PART A:

ANSWER ALL THE QUESTIONS

QUESTION 1

Eddie and Ali are best friends. Both of them work with Syarikat Maju Jaya Sdn Bhd. Eddie earns RM2,300 per month inclusive of RM300 for travelling allowance, RM 200 for supply of food and RM200 for subsistence allowance. Ali, on the other hand earns RM5,000 per month. Every Monday, Jack, Eddie's supervisor will give Eddie a weekly list of tasks for the week. Jack will brief Eddie as to the details of the tasks, the relevant tools needed and when the completion dates are. Ali has a more flexible routine; he is given the freedom to plan his works and submit them at the end of the week to Samy, his superior officer. As long as Ali submits his report on time, Samy will not complain. Last week, Ali realised that he was not able to complete one of the tasks from his list, so he decided to ask Eddie to help him. Eddie agreed to do so. With Eddie's help, Ali managed to complete it. As a token of appreciation Ali paid Eddie for his assistance. Eddie is so happy and told Ali that he doesn't mind to help Ali as long as Ali is willing to pay him. Ali agreed. This arrangement went on for a few months until one day Samy found out about it. Samy informed the company's management about this. Both Eddie and Ali contracts were terminated.

Advise Eddie and Ali.

(Total: 25 marks)

QUESTION 2

Discuss the following scenarios, by referring to the relevant provisions of law and cases:

(a) The government announces the Movement Control Order (MCO) from 14 March to 12 May 2020. Everyone must stay home unless they are part of the essential services. Mary works as a clerk with a legal firm. Her boss, John asks her to go to the office as usual. Mary refuses to do so. John is angry and tells her that she will be demoted if she doesn't follow his order. Mary needs the job so she goes to work. Unfortunately, she is stopped by the police. She explains her situation to them, but without an official letter permitting her to go to work, she is found guilty of not complying to the MCO. Mary informs John about this, but John insists that she must go to work. Mary submits her resignation letter. Mary wants to know whether she can bring an action against her employer for the way he treated her.

Advise Mary.

(15 marks)

Continued...

(b) Jane joined Syarikat Bagus Sdn Bhd about 5 months ago. She is now 3 months pregnant. She is not married but cohabits with her boyfriend, Andy for the last 2 years. Jane goes to see Calvin, the company's human resource manager, to find out about maternity leave and maternity allowance. Calvin tells Jane that the said benefits are only given to a married female employee. Jane is upset and writes in her social media about this, venting her anger towards the company, calling the company's policy as unfair, discriminatory and unconstitutional. Her views are supported by the netizens, who left negatives remarks on the company website. When Jane goes to work the next day, Calvin informs her that her contract has been terminated immediately.

Advise Jane.

(10 marks)

(Total:25 marks)

QUESTION 3

The Trade Union of Chemical Workers Peninsular Malaysia (the trade union) has submitted an application to claim recognition from Syarikat Baja Bagus Sdn Bhd (the company). The trade union received a letter refusing the said claim from the company without giving any reasons. Gopal, the trade union's president requested the company to give reasons for the said refusal, unfortunately the company did not respond to the said request. The members of the trade union were angry and pressured the trade union to take industrial actions. Gopal insisted that they should still continue to negotiate. Kamal, Ah Chong and James were not happy and decided to go for a picket for 3 days, every 1 hour during lunch time. They hold their placards in front of the gate to the company's premise. The public who saw them would support by sounding the horns of their cars or shouting words of encouragement. After the three days, Kamal, Ah Chong and James received their letter of immediate terminations. At the same time, the company stopped the negotiations with the trade union. The members of the trade union were unhappy with both of the company's actions and decided to go on strike. Gopal convened a meeting where 2/3 of the members agreed to go on strike for 3 days through secret ballot. The secret ballot was deposited with the Director General of Trade Unions, together with the resolution as to the issues for the strike. They went on strike for 3 days. The next day, they went to work but found that the premise was locked down. Gopal and the trade union officers were immediately dismissed for breach of their contract of employment.

Advise the parties.

(Total: 25 marks)

Continued...

PART B:

ANSWER ANY ONE (1) QUESTION ONLY

QUESTION 4 A

(a) The Minister referred the case of *Syarikat Kuat Sungguh Sdn Bhd v Trade Union of Steel Workers, Peninsular Malaysia* to the Industrial Court for adjudication of a trade dispute. Both of the parties were notified of this reference. The dispute touched on non-compliance of payment of annual bonus to the workers as provided in the collective agreement, signed by both parties. The company claimed that payment could not be made this year, since the company suffered a decline in sales of steels due to Movement Control Order (MCO). The trade union did not agree with this justification.

Discuss how the Industrial Court will adjudicate this trade dispute.

(15 marks)

(b) Discuss the definition of employment injury under the Employees' Social Security Act 1969. How does the said definition benefit the employee?

(10 marks)

(Total: 25 marks)

QUESTION 4B

(a) With reference to the Employees' Provident Fund Act 1991, discuss how does the Act safeguards the workers in their old age? In your opinion, is it enough?

(10 marks)

(b) The company received a complaint against David and Donald for misconduct. The company suspended both of them immediately pending the investigation. David was a supervisor with a salary of RM3,500 per month while Donald was an executive, earning RM5,000 per month. The investigation concluded that both of them were guilty. The company dismissed both of them for misconduct without giving them the right to be heard. Both of them would like to know whether they have the right to be heard before dismissal.

Explain to them.

(15 marks)

(Total: 25 marks)

End of Page